

THE LEONARD LETTER

*A weekly electronic newsletter about
California government, business and taxes
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QUOTE OF THE WEEK

“A democracy cannot exist as a permanent form of government. It can only exist until the voters discover they can vote themselves largesse from the public treasury. From that moment on, the majority always votes for the candidates promising them the most benefits from the public treasury, with the result that a democracy always collapses over a loose fiscal responsibility, always followed by a dictatorship.” ---(Alexander Tyler, in his 1770 book, Cycle of Democracy

UNDER THE DOME

*****Governor and Capitol Press Get Global Warming Wrong*****

It was so disappointing to hear the Governor say to the Capitol press that “we have to clean up the air to reduce global warming.” This is not factual. It is bad science and bad chemistry and, unfortunately, it started not with the Governor but with the press and those who want global warming to be a bigger issue. Polluted air is unhealthy whether it is hot or cold. Warm air that melts glaciers can either be clean or polluted. Whether air is clean or whether it contributes to global warming are two separate issues. You drink hot coffee or tea because you like the taste but you do not drink hot bathtub water because it is dirty.

The California Air Resources Board has for its entire existence been a single purpose agency. Its mandate is to make the air quality healthy. Some of their mandates have improved air quality and others have simply followed technological changes. But today the air in California is healthier than when the Board was created. I pushed for clean fuels and fought the oil companies on this and was an ally of the ARB at the time. However, now its single purpose has been diluted. AB 32, the anti-global warming bill, has been assigned to the ARB to implement. This creates an unresolvable conflict within the Board. A mandate to clean up the air, like more industrial catalytic converters, would necessarily release more heat and carbon dioxide gases which are not poisonous but which do contribute to global warming. How does the Board resolve this? Who gets the blame when it is not resolved?

*****High Taxes, High Regulation Are Sweet Music to Criminals*****

I am pleased to report that the BoE has now reported on the practical effect of AB 71, the Cigarette and Tobacco Products Licensing Act of 2003. Our staff estimates that compliance improved enough to bring in an extra \$88 million per year (\$292 million in evasion in 2003, down to \$204 million now). BoE staff faced a lot of challenges in getting this new law into effect and they deserve credit for getting the new system running well.

The new law raised reporting and licensing requirements, record keeping requirements, and mandated a new hologram stamp designed by a contractor to the U.S. Treasury to be affixed to each pack of cigarettes sold. Cigarettes are subject to both the cigarette tax and the cigarette and tobacco products surtax, and both are paid by distributors through the tax stamps. Currently, each stamp costs 87 cents per pack of 20 cigarettes. In sum, the tax is close to a whopping 47% per pack.

Looking at what was actually accomplished, the practical effect of AB 71 has been to reduce avoidance by maybe a third. And this is just looking at the first year of full implementation of the law. I fear the criminals have not yet had sufficient time to defeat the new security measures, but it is inevitable that many will.

We have come as close as I think possible to a police-state level of regulation on the sale of tobacco products. But we have not had enough of an impact to justify the hyper-regulation. It is obvious that the taxes are so high that no matter how many tobacco cops we hire, no matter how many mandates we place on retailers, it is too inviting for criminals to figure out ways to sell cigarettes in California without paying tax. After just a quick search I found a website that claims to sell tax-free cigarettes.

The era of government punishing people by taxing their behavior should end. The Internet and the globalization of the economy are weakening the state's control over people. As predicted, high taxes only drive business out of the U.S. and incentivize criminal activity.

AROUND THE STATE

*****BoE 2005-06 Annual Report*****

Last week the Board released the latest annual report. Revenues from sales and use taxes were up seven percent in 2005-06. During the same fiscal year, total BOE collected revenues rose to <http://www.boe.ca.gov/annual/annualrpts.htm#06>

Noteworthy facts in the report:

- Taxable sales in the state totaled \$553.5 billion during the fiscal year, an increase of \$38.2 billion, or 7.4 percent, from taxable sales in 2005-06.
- Total sales and use tax revenues of \$44.3 billion included \$29.3 billion for state programs and services and \$15 billion for cities, counties, and special districts.
- Gasoline, aircraft jet fuel, and diesel and use fuel tax revenues rose by .9 percent to \$3.4 billion.

- Collections from the state's tobacco-related taxes totaled \$1.094 billion. Alcoholic beverage tax revenues grew by 1.3 percent to \$318.2 million.
- Statewide property tax levies for utilities in 2005-06 totaled \$38.3 billion, an increase of 11.1 percent. County-assessed property values grew by \$429 billion during 2005-06 to reach \$3.9 trillion for the 2006-07 tax year.

*****California Road Challenge*****

On June 23rd there was a party in Rialto and everyone was invited to “come play on the freeway”—the new 210 Foothill Freeway that will be open to drivers in a few short weeks. The last segment, about seven miles, of the Foothill Freeway will open so that I can drive from my hometown of San Bernardino west to Los Angeles through the foothill communities I represented in the legislature for decades. I am excited about the freeway finally being completed, and when I say “finally,” I do so considering that my father was advocating for funding for this project while I was still in grade school. Yet, that excitement is muted by the reality that CalTrans will not be able to maintain the Foothill Freeway to the standard they should. Consider these differences in Cal Trans numbers: in 1990-91 there were 5335 field maintenance “person years” and in 2005-2006 that number was only up to 5445 even though nearly 2000 more miles of highway lanes and more than 300 more bridges (since 1986) have been added to the maintenance inventory. That situation is why California was ranked nationally as having the sixth worst performing roads in the nation by a Reason Foundation study released recently. California has 18,230 miles of roads and highway under state control. We rank 43rd in the country at spending per mile. More than 13% of our urban roadways are rated as being in poor condition and 88% of them are congested. (That is the worst congestion in the nation). The only positive I gleaned from the Reason analysis is that I do not live in New Jersey. To see the entire Reason report, go here:

<http://www.reason.org/ps360.pdf>

ISSUE FOCUS

*****Independence from Taxes*****

I noticed a fascinating trend with the retail side of July Fourth week. I saw and heard advertisements for many sales—mostly for furniture—in which the stores offered to pay the customers' sales tax for them. Sales-tax free marketing efforts are nothing new, but I enjoyed having them closely linked to Independence Day. It reminds Americans of just one of the reasons we rebelled against Great Britain so many years ago. The colonists were sick and tired of paying taxes, particularly when they did not have a voice in how those taxes were spent or enacted and when the way they were spent did not actually benefit those who paid them. I think today many Americans are sick and tired of our heavy tax burden as well. They may have elected representatives, but a majority of those representatives (at least in California and seemingly in the U.S. Congress as well) are more eager to dole out pork barrel projects than insist on the integrity of our tax system as the basis for limited government as the Founding Fathers intended. As the quote of the week from Alexander Tyler, *supra*, says, such lack of

fiscal responsibility may spell the doom of this great republican experiment we embarked on in 1776. Think about that as you're kicking back on your new tax-free sofa.

*****The Bald Truth*****

You may have read recently that the bald eagle population is thriving enough that it has been removed from the Endangered Species list. (Kudos to the Pacific Legal Foundation for forcing the Fish & Wildlife Service to act, something that had refused to do since the species' numbers indicated removal from the list a decade ago.) The popular press celebrated this as a sign of the effectiveness of the Endangered Species Act, but they ignored the findings of the Reason Foundation that the Act likely did more harm than good. Reason's first point is that the bald eagle was never actually in danger of extinction because of the large populations in Canada and Alaska but was simply not very populous in the lower 48. Second, Reason notes that DDT was banned in 1972 and the Endangered Species Act became law in 1973. The former had a greater effect on promoting the bald eagle population than the latter since the eagles are predators that eat smaller birds that were affected by DDT. Reason also states the Act "may well have done more harm than good on private land, where most of the listed eagles exist."

Unfortunately, the growth of the eagle population in the contiguous states is not sufficient for the regulators at the Fish and Wildlife Service. Congress relied on their bad science to endorse even more invasion of private property rights in the Bald and Golden Eagle Protection Act. This law takes the requirements from the Endangered Species Act that can no longer be applied to the unendangered eagles and makes them apply specifically to the eagles. So even though the population is booming, the government will still be invoking land restrictions. To read more about Reason's eagle findings, see www.reason.org/pb64.pdf

MISCELLANY

*****A Good Read*****

A colleague recently shared with me a book that connects math theory to the real world in a very entertaining way. "Coincidences, Chaos, and All That Math Jazz: Making Light of Weighty Ideas" by Edward B. Burger and Michael Starbird begins with familiar topics (for example, how many people share your birthday) and then asks readers to engage their imaginations to sneak up on weighty mathematical ideas like probability, chaos, statistics, cryptography, Fibonacci spirals, the aesthetics of the Golden Ratio and the Golden Rectangle, topology and notions of infinity. (As an aside, if you are curious about Fibonacci spirals, there is a wonderful representation of them in the Camellia Forrest at the Descanso Gardens in La Cañada.) All of these concepts are handled in a clear, lucid style with ample illustrations that requires little prior knowledge of math. The authors took the subtitle, "Making Light of Weighty Ideas," seriously as there are jokes and puns throughout. You will learn fascinating things and laugh as you read this book that helps make sense of the mathematical concepts inherent in everyday life, from cryptology to pineapples (that is where Fibonacci comes in).

BOE AND LEGISLATIVE DATES

July 13, 2007 --- Last day for policy committees to hear and report bills (J.R. 61(a)(10)).

July 17-18, 2007 --- Board of Equalization meets in Sacramento.

July 20, 2007 --- Summer Recess begins on adjournment, provided Budget Bill has been passed (J.R. 51(a)(3)).

August 14, 2007 --- Board of Equalization meets in Sacramento.

August 20, 2007 --- Legislature reconvenes from Summer Recess (J.R. 51 (a)(3)).

September 3, 2007 --- Labor Day.

September 7, 2007 --- Last day to amend on the Floor (J.R. 61(a)(13), A.R. 69(e)).

September 11, 2007 --- Board of Equalization meets in Sacramento.

September 14, 2007 --- Last day for any bill to be passed (J.R. 61(a)(14)). Interim Recess begins on adjournment (J.R. 51(a)(4)).

October 2-4, 2007 --- Board of Equalization meets in Culver City.

October 14, 2007 --- Last day for Governor to sign or veto bills passed by the Legislature on or before Sept. 14 and in the Governor's possession after Sept. 14 (Art. IV, Sec.10(b)(1)).

October 17, 2007 --- Board of Equalization meets with County Assessors in Shell Beach.

October 23-24, 2007 --- Board of Equalization meets in Sacramento.

NOTABLE DATES/ HISTORY

July 9, 1850 --- President Zachary Taylor died after suffering food poisoning five days prior.

July 9, 1924 --- The Democrat Party convention took more than 100 ballots to nominate John W. Davis, a lawyer and former ambassador, for president. He ran against incumbent Calvin Coolidge.

July 10, 1913 --- The National Weather Service recorded the temperature in Death Valley, California at 134° F. It was the highest temperature ever recorded in the United States.

July 10, 1925 --- The trial of teacher John Scopes began in Dayton, Tennessee. Scopes was tried for teaching evolution in what became known as “the monkey trial.”

July 11, 1798 --- The U.S. Marine Corps was formally re-established when “An Act for Establishing a Marine Corps” was passed by the U.S. Congress. The Act also created the U.S. Marine Band. The Marines were first commissioned by the Continental Congress on November 10, 1775.

July 11, 1804 --- Former Vice President Aaron Burr shot Alexander Hamilton, the former Treasury Secretary, in a duel in Weehawken, New Jersey. Hamilton died the next day.

July 11, 1905 --- W. E. B. Du Bois, Monroe Trotter, and other prominent African Americans met in Niagara Falls to demand full citizenship rights for African Americans.

July 12, 1864 --- George Washington Carver was born a slave in Missouri. He went on to become a noted scientist and educator.

July 12, 1909 --- Congress passed the 16th Amendment to the Constitution, granting the power to tax income. The Amendment was ratified on February 3, 1913.

July 12, 1984 --- Geraldine Ferraro became the first woman on a major-party presidential ticket in the when Democrat presidential nominee Walter Mondale named her as his running mate.

July 14 1933 --- The German government outlawed all political parties except the National Socialist (Nazi) party. Hitler had already been granted dictatorial power.

July 15, 1149 --- Jerusalem’s Church of the Holy Sepulchre was dedicated at the site where Jesus is said to have been entombed after his crucifixion. This is the church that exists today and was built on the site of earlier churches.

July 15, 1979 --- President Jimmy Carter delivered a nationally televised address that became known as the “malaise speech” and showed out how of touch he was with the people. His topic was the country’s dependence on foreign energy supplies.

GENERAL TAX INFORMATION

For answers to your general tax questions, call the Board of Equalization information center. Customer service representatives are available to help you from 8:00 a.m. to 5:00 p.m. Pacific time, Monday through Friday (except state holidays).

Toll-free number: 800-400-7115
TDD service for the hearing impaired
TDD phones: 800-735-2929
Voice phones: 800-735-2922

To reach the Taxpayer Rights Advocate’s office for assistance with any BOE issues, see <http://www.boe.ca.gov/tra/tra.htm>, or call toll-free 1-888-324-2798.

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